

The Judiciary, State of Hawai'i

Testimony to the House Committees on Health

The Honorable Josh Green, M.D., Chair The Honorable John Mizuno, Vice Chair

Wednesday, March 12, 2008, 8:00 a.m. State Capitol, Conference Room 329

by Moira Chin

Office of the Public Guardian

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 2151, S. D. 2, Relating to Long-Term Care Ombudsman.

Purpose: Expands the long-term care ombudsman program by adding three additional ombudsman positions, one for each neighboring county.

Judiciary's Position:

The Judiciary supports Senate Bill No. 2151, S.D. 2.

The Office of the Public Guardian (OPG) serves as court-ordered legal decision makers for mentally incapacitated adults when no other individual is available or willing to serve. There are approximately 800 cases statewide. Of this total, approximately 100 reside on the neighboring islands of Hawaii, Kauai and Maui. More than half of all cases involve former wards of Waimano Training School and Hospital; approximately 35% of clients are elderly and frail individuals with dementia; and about 10% of OPG clients have a diagnosis of severe mental illness, including a few residing in psychiatric hospitals.

The Guardian of the Person, if unlimited in its court-appointed duties, is responsible for overseeing and making all necessary decisions for the client's overall health, welfare and finances. All decisions affecting the clients are discussed with the assigned Guardian Specialists and informed consents are then authorized.



Senate Bill No. 2064, S. D. 1, Relating to Jury Service House Committee on Health Wednesday, March 12, 2008 Page 2

The demand for legal guardianship will continue to rise as the general population ages and more of the elderly over 85 years of age become incapacitated at an increasing rate. At the present time, the growing number of new guardianship cases involves the frail and elderly and the severely mentally ill client.

For all of OPG's cases, the majority reside in long-term care placements statewide, a fortunate few reside independently in the community, and for some, placement in a long-term care program is inevitable.

The LTC Ombudsman on Oahu is available to support our clients currently residing in the multitudes and range of nursing facilities (NF), assisted living facilities (AL), adult residential care homes (ARCH) and expanded ARCHs. It is reassuring to note that a voice exists within the long-term care settings to address resident issues and concerns. Due to the nature of incapacity for OPG clients, many of whom are unable to advocate for their own health and welfare, we value the voice and advocacy of the LTC Ombudsman to supplement OPG high case loads. The expansion to neighbor islands is much needed and crucial for the well being of our very vulnerable population.

Thank you very much for the opportunity to provide comments on this measure.

HGEA

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME LOCAL 152, AFL-CIO 888 MILILANI STREET, SUITE 601 • HONOLULU, HAWAII 96813-2991



Randy Perreira Executive Director Tel: 808 543-0011 Fax: 808 528-0922 Nora A. Nomura Deputy Executive Director Tel: 808 543-0003 Fax: 808 528-0922 Derek M. Mizuno Deputy Executive Director Tel: 808 543-0055 Fax: 808 523-6879

HOUSE OF REPESENTATIVES THE TWENTY-FOURTH LEGISLATURE REGULAR SESSION OF 2008

COMMITTEE ON HEALTH COMMITTEE ON HUMAN SERVICES & HOUSING

Testimony by HGEA/AFSCME Local 152, AFL-CIO March 12, 2008

S.B. 2151, S.D. 2 - RELATING TO LONG-TERM CARE OMBUDSMAN

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, **supports** S.B. 2151, S.D. 2, which "expands the Long-Term Care Ombudsman (LTCO) by adding three additional ombudsman positions, one for each neighboring county." Hawaii is one of only five remaining states which does not have a "local" or "regional" ombudsman program. This bill will finally bring us up to speed with every other state, Puerto Rico, Guam and the District of Columbia.

The neighbor island residents have been waiting over thirty years to have the same "regular and timely access to services" provided by the LTCO program as Oahu and have been paying the same federal and state taxes. By having a "local" ombudsman who knows the "local" people and "local" culture, that person can be a better advocate and is more accessible to service their community. The response time to address complaints and concerns will be done more timely; more regular and consistent visits to facilities can be conducted and be more pro-active in preventing abuse, neglect and exploitation of our Kupuna. The goal of the LTCO program is one volunteer for every long-term care facility. Neighbor island residents have waited long enough and are entitled to a full-time advocate.

Currently the needs of Hawaii's long-term care residents are not being met nor are we meeting the federal mandate. With adequate staffing and funding, Hawaii will be able to deliver the services and provide the quality of care our Kupuna's should be receiving. We ask for your consideration of this proposal.

Thank you for the opportunity to testify in support of this measure.

Respectfully submitted,

Deputy Executive Director

LINDA LINGLE GOVERNOR OF HAWAII

CHIYOME L. FUKINO, M.D. DIRECTOR OF HEALTH



STATE OF HAWAII EXECUTIVE OFFICE ON AGING

NO. 1 CAPITOL DISTRICT 250 SOUTH HOTEL STREET, SUITE 406 HONOLULU, HAWAII 96813-2831 NOEMI PENDLETON DIRECTOR

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House Committee on Health

House Committee on Human Services and Housing

SB 2151 SD 2, Relating to Long Term Care Ombudsman

Testimony of Noemi Pendleton Director of Executive Office on Aging Attached Agency to Department of Health

Wednesday, March 12, 2008

8:00 a.m.

- Department's Position: The Department of Health and the Executive Office on Aging
- 2 understand the intent of this measure but note that the appropriation included in the bill is
- outside the Executive Supplemental Budget.
- 4 **Fiscal Implications:** There is an unspecified appropriation of general funds for fiscal year 2008-
- 5 2009 to the Department of Health.
- 6 **Purpose and Justification:** The purpose of SB 2151 SD 2 is to expand the long-term care
- 7 ombudsman program by adding three additional ombudsman program positions, one for each
- 8 neighboring county, and to provide funding to support those 3 programs. Per the Older Americans
- 9 Act of 1965 (OAA), the role of the Long Term Care Ombudsman (LTCO) is to "serve on a full-
- time basis and shall, personally or through representatives of the Office, identify, investigate, and
- resolve complaints that are made by, or on behalf of residents, and relate to action, inaction, or
- decisions that may adversely affect the health, safety, welfare and rights of residents."

- The LTCO Program (LTCOP) advocates for seniors living in licensed nursing facilities
- 2 (NF), assisted living facilities (AL), adult residential care homes (ARCH) and expanded ARCHs.
- That total population in Hawai'i is approximately 8,129 residents in 503 facilities.
- 4 The OAA mandates all residents "have regular and timely access to the LTCOP services." The
- 5 U.S. Administration on Aging (AOA) interprets this as "every resident is visited quarterly."
- 6 Hawaii has 120 Neighbor Island LTC facilities (NFs, ARCHs, ALs).
- 7 The ultimate goal of the LTCOP is to have a <u>volunteer</u> Ombudsman Representative in
- 8 every facility visiting residents weekly so they can respond more quickly to residents' concerns.
- 9 They can provide more regular and consistent visits to facilities and be more pro-active in
- preventing potential abuse, neglect and exploitation of our Kupuna.
- 11 Currently, there are three qualified Ombudsman specialists in the Executive Office on
- 12 Aging who are charged with assuring advocacy and patient rights protection for seniors living in
- licensed care facilities throughout the state.
- Should there be additional staff, the LTCOP could provide: more trainings for facility
- staff promoting individualized care/cultural change; better and more consistent routine facility
- monitoring to help residents resolve concerns at the facility level; better monitoring of federal and
- state laws and regulations; more community education presentations for consumers; more
- 18 consultations to facility staff to help reduce problems; more technical support for Resident and
- 19 Family Councils; more time to explore other ways to increase total program funding; and greater
- 20 ability to increase the number of certified volunteer ombudsmen.
- Thank you for this opportunity to testify.

mizuno1-Edgar

From:

manis [manis@lava.net]

Sent:

Monday, March 10, 2008 11:58 AM

To:

HLTtestimony

Subject:

Sb2151 SD2 Ltc Ombudsman

Attachments:

SB2151 SD2 LTC Ombudsman



SB2151 SD2 LTC Ombudsman (670 ...

Attachment is the same as below in case you can't open it. Thanks Laura Manis, 596-8838

Kokua Council; Laura Manis Testifier

Hearing of the House Committees on Health and Human Services & Housing

March 12, 2008, 8 a.m. Conference Room 329

Chair Josh Green, MD., and Members of the HLT Committee, and Chair Maile S. L. Shimabukuro and Members of the HSH Committee

SB 2151 SD2 RELATING TO LONG-TERM CARE OMBUDSMAN. Expands the long-term care ombudsman program by adding three additional ombudsman positions, one for each neighboring county. SUPPORT

This testimony is being submitted on behalf Kokua Council whose mission includes advocating for the health of the elderly and those vulnerable populations who can not advocate for themselves.

Situated within the Executive Office on Aging, this statewide program requires the ombudsman to visit all 44 nursing homes and 537 adult residential care homes on six islands for a total of 6,300 beds. The program is currently staffed by only two full-time program specialists who must process complaints, educate volunteers and keep records. We are concerned with the quality of care in long term care facilities that in this bill will fortunately include foster homes, previously uncovered.

We believe that since Neighbor Island residents pay the same federal and state taxes as Oahu, they should have the same access to the services provided by the LTC Ombudsman. The expense of airfares, meals, overnight lodging of flying Honolulu's Ombudsman to the neighbor islands will be mitigated by having an on-site Ombudsman.

A regional ombudsman better serves the local community by knowing the local culture and people, will have greater access to the local area agency on aging, the County Council and legislative representatives. They can respond more quickly to complaints and concerns, provide more regular visits and be more proactive in preventing abuse, neglect and exploitation, can use local media for recruiting volunteers and do regular training of facility workers and volunteers.

We approve REMOVING THE lines page 4, line 10 [provided that resident records shall be divulged only with the written consent of the resident or the resident's legal representative;] because a guardian may have a vested interest and stand to gain by closed records. This will protect the interests of patients who are physically and/or mentally unable to give consent. The bill provides adequate privacy protections.

We ask that you will support this bill.
Laura G. Manis, Legislative Chair, Kokua Council
tel. 597-8838

TESTIMONY TO THE TWENTY-FOURTH STATE LEGISLATURE, 2008 SESSION

To:

House Committee on Health

House Committee on Human Services and Housing

From:

Gary L. Smith, President

Hawaii Disability Rights Center

Re:

Senate Bill 2151, SD2

Relating to Long Term Care Ombudsman

Hearing:

Wednesday, March 12, 2008 8:00 AM

Conference Room 329, State Capitol

Members of the Committee on Health:

Members of the Committee on Human Services and Housing:

Thank you for the opportunity to provide testimony supporting Senate Bill 2151, SD2 Relating to Long Term Care Ombudsman

I am Gary L. Smith, President of the Hawaii Disability Rights Center, formerly known as the Protection and Advocacy Agency of Hawaii (P&A). As you may know, we are the agency mandated by federal law and designated by Executive Order to protect and advocate for the human, civil and legal rights of Hawaii's estimated 180,000 people with disabilities.

We support this bill because it is important that the neighbor island residents receive the services that the Long Term Care Ombudsman provides. We have worked with their office inasmuch as there are certain situations where the needs of our respective clients have overlapped. We have always found the office to be helpful and to be providing a very valuable service. Passage of this bill will enable them to better offer these services to all citizens of our state.

Thank you for the opportunity to provide testimony in support of this bill.

mizuno1-Edgar

From: Marseel@aol.com

Sent: Monday, March 10, 2008 1:50 PM

To: HLTtestimony **Subject:** SB 2151m SD 2

Testimony

From: Marilyn R. Seely, concerned senior advocate and former director, Executive Office on Aging

To:
COMMITTEE ON HEALTH
Rep. Josh Green, M.D., Chair
Rep. John Mizuno, Vice Chair

COMMITTEE ON HUMAN SERVICES & HOUSING

Rep. Maile S. L. Shimabukuro, Chair Rep. Karl Rhoads, Vice Chair

Wednesday, March 12, 2008

8:00 am

Regarding: SB2151, SD2

RELATING TO LONG-TERM CARE OMBUDSMAN.

(SSCR2765)

Expands the long-term care ombudsman program by adding three addi ombudsman positions, one for each neighboring county.

Honorable Chairs and Members of the Committees:

I have seen first hand here in Hawaii and in other states what this progr to very vulnerable, at risk residents of long term care facilities and their well as to the staff of the facilities. Having a trained, respected and dedi party acting as advocate, friend and specialist in care is invaluable in th situations.

Because paid staff are few in number and based on Oahu, the bulk of th done for the state from one island. It is imperative that the neighbor is timely access to these services by expanding the LTCO program statewi

As the number of older adults grows, so will the services they need inclu institutional care. We must keep up with the demand for quality access this most vulnerable group of citizens. I urge you to consider this expan better serve residents of long term care facilities and their caregivers the the state.

Thank you for considering this measure.



For Wed, March 12, 2008 House HLT/HSH 8:00 am

National Association of Social Workers

Hawaii Chapter

March 9, 2008

TO: Re

Rep. Josh Green, Chair

Rep. Maile Shimabukuro, Chair

And members of the House Health, Human Services and Housing Committees

FROM: Debbie Shimizu, LSW

National Association of Social Workers, Hawaii

RE: SB 2151 SD2 Relating to Long-Term Care Ombudsman- SUPPORT

Chair Green, Chair Shimabukuro and members of the House Health, Human Services and Housing Committee, I am Debbie Shimizu, Executive Director of the National Association of Social Workers, Hawaii (NASW). I am testifying in **SUPPORT** of SB 2151 SD2 to expand the long-term care ombudsman program to each of the neighbor islands.

In 2007, the Office of the Long-Term Care Ombudsman was established within the Executive Office on Aging. However, only 1 Ombudsman position was created leaving neighbor island residents without the same access to services provided by the Long-Term Care Ombudsman program. Furthermore, federal standards developed by the Administration on Aging (AOA) recommends at a minimum 1 ombudsman per 2,000 beds. (See Institute of Medicine's 1995 report, "Real People Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act."). With a total of 8,606 long-term care residents, that means Hawaii needs 4 ombudsmen to meet the minimum standard.

With the increasing population of elderly in the community, we need to establish a long-term care ombudsman on the other islands to ensure their safety in nursing homes, care homes and community foster homes.

Thank you for the opportunity to testify in SUPPORT of SB 2151 SD2.

Hawai'i Alliance for Retired Americans AFT Hawaii Retirees

AFT Hawaii Retirees
HGEA Retirees

An affiliate of the Alliance for Retired Americans HSTA - Retired c/o AFSCME · 888 Mililani Street, Suite 101 · Honolulu, Hawaii 96813 ILWU Retirees

HSTA – Retired

ILWU Retirees

Kokua Council

Machinists Union Retirees

UPW Retirees

ADA/Hawaii

(Submitted by email to HLTtestimony@capitol.hawaii.gov March 8, 2008)

Joint statement of Al Hamai, President, and Carol Nitta, Legislative Committee Member, Supporting SB 2151, SD2, Relating to Ombudsman

Hearing of the House Committees on Health and Human Services & Housing

March 12, 2008, 8 a.m. Conference Room 329

Chair Josh Green, MD., and Members of the HLT Committee, and Chair Maile S. L. Shimabukuro and Members of the HSH Committee

We are submitting testimony on behalf of the Hawaii Alliance for Retired Americans (HARA). HARA represents 17,000 retirees, members of the above organizations and individuals. We are a chapter of the Alliance for Retired Americans (ARA), a national advocacy organization for retirees.

This bill proposes to expand the Long Term Care Ombudsman program to include additional Ombudsman positions on each of the neighbor island counties. HARA concurs whole heartedly with this proposal which will provide on each of the counties a full time ombudsman, who will be able to in the words of the proposed bill "...represent the interests of residents in long-term care facilities, individually and as a class, to protect their health, safety, welfare and rights and promote improvement in the quality of care they received and their quality of life;." Also the Ombudsman will be able to investigate complaints and work to resolve them and as important the Ombudsman will be expected to keep abreast with developments in the area of long term care with relation to laws, regulations, policies, facilities, services, etc., and submit their recommendations. With the growth of our aging population and longer life span of people, the need for Ombudsman positions in each of the neighbor island counties is clear. HARA urges the House HLT and HSH Committees to approve SB 2151, SD2.

Ke hana like nei na kupuna i 'oi loa a'e 'o Hawai'i Senior citizens working together for a better Hawai'i TO:

HOUSE COMMITTEE ON HEALTH

Rep. Josh Green, M.D., Chair Rep. John Mizuno, Vice Chair

HOUSE COMMITTEE ON HUMAN SERVICES AND HOUSING

Rep. Maile S. L. Shimabukuro, Chair

Rep. Karl Rhoads, Vice Chair

FROM:

Eldon L. Wegner, Ph.D.,

PABEA (Policy Advisory Board for Elder Affairs)

SUBJECT: SB 2151 SD2 RELATING TO LONG-TERM CARE OMBUDSMAN

HEARING: 8:00 am Wednesday March 12, 2008

Conference Room 329, Hawaii State Capitol

PURPOSE:

Expands the long-term care ombudsman program by adding three

additional ombudsman positions, one for each neighboring county.

POSITION: PABEA STRONGLY SUPPORTS SB 2151 SD 2

RATIONALE:

I am offering testimony on behalf of PABEA, the Policy Advisory Board for Elder Affairs, which is an appointed board tasked with advising the Executive Office on Aging (EOA). My testimony does not represent the views of the EOA but of the Board. I am also a professor of medical sociology at UH-Manoa who has worked with elderly services in Hawaii for more than 20 years.

• While many facilities provide excellent care, unfortunately there are also instances where there are shortcomings and where the Ombudsman soffice is needed to negotiate the needed improvements.

The neighbor islands need the same level of protection as do residents of Oahu. In fall 2006, members of the Policy Board for Elder Affairs conducted community forums throughout the state to hear about issues from family caregivers and providers of services for our elderly citizens. On numerous occasions, we heard complaints about inadequate oversight of facilities on the neighbor islands.

The Ombudsman soffice has developed a volunteer program to assist with providing the needed visits to facilities. Unfortunately, the volunteer program has not succeeded on the neighbor islands. It is apparent that there needs to be professional staff for this important work and to coordinate any qualified volunteers.

The proposed bill would appropriate funds to assure staffing of the Ombudsman office on the neighbor island in order to meet the federal requirements for visits to facilities and assure the care and safety of residents of long-term care facilities.

Thank you for allowing me to testify.

mizuno1-Edgar

From: bris

brian lee [leet063@hawaii.rr.com]

Sent:

Monday, March 10, 2008 8:52 PM

To:

HLTtestimony

Subject: Testimony SB2151 SD2

Aloha: I am currently a volunteer for the LTCOP, a position I take seriously as a valuable part of the spirit of aloha that cares for Hawaii's kupuna that are in long term care facilities. The current bill is important to the integrity of this spirit throughout the state; Kauai, Maui and Hawaii all will benefit from inclusion in the ombudsman process for their kupuna. I am proud to be part of a program, and a state that sustains it, with such noble intentions.

Please pass SB2151 SD2 as it is written.

Sincerely,

Brian Lee

3/11/2008

Aloha,

NAME	<u>PHONE</u>
1. Marina suitesa	9743093317
2. GATIA PhileTa	71439337
3. BOBO Tuleja	71436933A
4. STORMY PhileTa	9714359339
5. Annie Tulemoty	684162
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9. JEBRON Amon	2-35-86-B
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Aloha,

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Aloha,

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5. Colleen Lindsey	488-4534
6. Larry Tuileta	221-5915
7. Maili Trületa	24-5915
8. Kayla Tinleta	221-5915
9. Kylee Türleta	221-5915
10. Tri Trileta	221-5915
11. Kiani Tuileta	221-5915
12. Larson Tuileta	221 -5915

Aloha,

NAME

We the students, faculty, staff and community at Hawaii Pacific University are signing this petition IN SUPPORT of SB 2151 and HB 2289. The Long Term Care Ombudsman Program advocates for residents of licensed long term care facilities such as nursing homes, adult residential care homes, expanded adult residential care homes and assisted living facilities. Hawaii was one of the first states in the country to start this program in 1975, three years before it became a federal law when the Older Americans Act was amended. The LTCOP is required to provide "timely and regular access" to their services but with only 2 Ombudsmen based in Honolulu, the Neighbor Islands have NOT had equal access to those important services. Thirty-three years is long enough. We ask that the Legislature please support these two bills funding 3 permanent Neighbor Island LTCO positions. Mahalo.

PHONE

NAME	PHONE
1. Nive Tuileta	221-5915
2. Mabeleen Reid	221-5915
3. philiam kittredge III	8087211641
4 Missy Talkington-Ching	3919625
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6. Ohloey Talkington Mung	39/4625
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12. DARRYL PARKER	253-34-44

Aloha,

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Aloha,

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5. Ciessa Jalitor	256 4596
6. Bronson Faletoi	393 8092
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10. Elizabeth Leituala	(684)252-0107
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Aloha,

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5.Ms. Melissa Lishman 14	808-738-7047
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4. Marie Kurala	a Co	3752398
5. COSHUA TAKIOVEHI	Class	708-393-9706
6. Le, Voc	Morle	809-780-3981
7. Ni Lu	yur	808-391-0488
8. Daniel Morisado	Frul Mile	808-223-4070
9. Sean Balaya	C Rith	8US - 273=4020
10. Jumy Lourd	min 1	308 - 359 - 3746
11. DN3Kc0	Total	808-258-3902
12. Deanna Rivard	D RA	808-927-0703

Aloha,

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2. CHAD feis Cent fro	254-4333
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5. Danise Ahlu	358-3679
6. Sosoi L Moli	688-7580
7. Morphei Puletasi	687-1901
8. Ruta Fogavai Jetogavan	941-1776
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10. KIRIFI OFAGALILO	754-1560
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11. AllHta 1 Sagapolutele Shipa Bagapangele 12. KANANI L. BERINOBIS Karare Burnepis	<u>833 - 784</u> 0 853 - 0758

Aloha,

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1. I alei / husa	9835948
2. 7 Vela	5517468
3. Baby Justemotic	6884962
4. Vai auvaia	6993848
5. Bryant Campbell	8087235942
6. Carolina C-Mendoya	2222629
7. Joje TaiaPi Mo	GBCH32
8. Fric Young of	8326555178
9. Joremy Caster	61548035-28
10. FICLYN WILLIS	5619499
11.	
12	

Aloha,

371367

We the residents, staff and families of Samuel Mahelona Memorial Hospital are signing this petition IN SUPPORT of SB 2151 and HB 2289. The Long Term Care Ombudsman Program advocates for residents of licensed long term care facilities such as nursing homes, adult residential care homes, expanded adult residential care homes and assisted living facilities. Hawaii was one of the first states in the country to start this program in 1975, three years before it became a federal law when the Older Americans Act was amended. The LTCOP is required to provide "timely and regular access" to their services but with only 2 Ombudsmen based in Honolulu, the Neighbor Islands have NOT had equal access to those important services. Thirty-three years is long enough. We ask that the Legislature please support these two bills funding 3 Neighbor Island LTCO positions. Mahalo.

NAME	<u>PHONE</u>
1. Talaleo Y. Yaenan	8225187
2. rene Maedo	822_5338
3. JONOUN SMONS Jonguel Semony	639-6291
4. allert Phillips	823-0124
5. JEstrella	823 4146
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8. Eldyn Ferry	823-4146
9. Janet II	822-9129
10. Agny Junaples	822-72-04
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7. Robert m.K. Jan	247-270,
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Aloha,

NIANTE

We the members of the National Active and Retired Federal Employees Association (NARFE) Kaneohe Chapter 1681 are signing this petition IN SUPPORT of S.B. 2151 SD2. The Long Term Care Ombudsman Program advocates for residents of licensed long term care facilities such as nursing homes, adult residential care homes, expanded adult residential care homes and assisted living facilities. Hawaii was one of the first states in the country to start this program in 1975, three years before it became a federal law when the Older Americans Act was amended. The LTCOP is required to provide "timely and regular access" to their services but with only 2 Ombudsmen based in Honolulu, the Neighbor Islands have NOT had equal access to those important services. Thirty-three years is long enough. We ask that the Legislature please support these two bills funding 3 permanent Neighbor Island LTCO positions. Mahalo.

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4. Virginia Mansinon	236-0984
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